



Date: February 16, 2021

To,

BSE Limited,
P.J. Towers,
Dalal Street,
Mumbai – 400 001.

Scrip Code: 531260

Dear Sir/Madam,

Sub: Intimation under Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

This disclosure is pursuant to Regulation 30 read with Schedule III of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Sr. No.	At the time of becoming the party:	
1.	Brief details of litigation viz. name(s) of the opposing party, court/tribunal/agency where litigation is filed, brief details of dispute/litigation	<p>SunEdison Infrastructure Limited (“Company”) entered into a framework agreement with South Lake One LLC, Fenice Investment Group LLC, Pashupathy Shankar Gopalan, Anil Jain, SILRES Energy Solution Private Limited, Pashupathy Capital Pte. Ltd, Sherisha Infrastructure Private Limited, Sherisha Technologies Private Limited (promoter of the Company) and Avyan Pashupathy Capital Advisors Private Limited (promoter of the Company) on June 23, 2020 (“Framework Agreement”).</p> <p>Under the Framework Agreement, the Company was, <i>inter alia</i>, to transfer certain identified businesses to a privately incorporated company, SunEdison Energy Solutions Private Limited, which is a related party of the Company falling within the meaning of Section 2(76) of the Companies Act, 2013.</p> <p>An extraordinary general meeting of the Company (“EGM”) was conducted on December 11, 2020, and the shareholders in the said EGM approved the transfer as</p>

SunEdison Infrastructure Limited

(Formerly YKM Industries Limited)

11th Floor, Bascon Futura, New No: 10/2 Old No: 56L, Venkatanarayana Road,
T. Nagar, Chennai -600017. CIN No: L40100TN1994PLC028263

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		<p>mentioned above to SunEdison Energy Solutions Private Limited.</p> <p>A complaint was allegedly filed with the Securities and Exchange Board of India (“SEBI”) alleging, <i>inter alia</i>, that the transactions contemplated in the Framework Agreement are against the interests of the minority shareholders of the Company.</p> <p>Subsequently, SEBI passed an interim order no. WTM/SKM/CFID/4/2020-21 dated: 15 February 2021 under section 19 read with Sections 11(1), 11(4) of the Securities and Exchange Board of India Act, 1992 (“Order”). A copy of the Order is enclosed as Annexure A.</p> <p>The Order, <i>inter alia</i>, restrains the parties to the Framework Agreement from proceeding with the proposed transactions contemplated thereunder and directs the Bombay Stock Exchange (“BSE”) to conduct a forensic audit on the Company.</p> <p>The Company believes that the complaint and the interim order passed by SEBI should be reversed post the audit to be conducted by BSE.</p> <p>The Company is also in the process of issuing a reply to SEBI with regard to the Interim Order.</p>
2.	Expected financial implications if any due to compensation, penalty etc.	There is no monetary penalty, damages or compensation sought by SEBI in its Order.
3.	Quantum of claims, if any.	There is no monetary penalty imposed in the Order.

Pursuant to the requirements under Regulation 30 read with Schedule III of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, please also be informed that BSE has been directed to appoint a forensic auditor and conduct an audit for the period from April 1, 2019 to December 31, 2020 (“**Audit Period**”), details of which are provided below:



- (i) Manipulation of books of accounts including the authenticity of item-wise details of grouping/ re-grouping of assets (segment-wise and division wise) ascertaining the details of the values and corresponding liabilities etc.;
- (ii) Misrepresentation of facts including financials and/or business operations;
- (iii) Wrongful diversion/siphoning of Company's funds;
- (iv) All related party transactions carried out during the Audit Period;
- (v) Whether the valuation of the assets proposed to be transferred via slump sale and also under the Framework Agreement as per recognized valuation methodology and such valuation represent the true fair market values of those assets and are in agreement with the transaction value agreed to by the Company; and
- (vi) Any other related matter.

SEBI has directed BSE to file the forensic audit report to SEBI with its observation, in 15 days, from the date of receipt of such report from the forensic auditor.

We request you to take the same on record.

Thanking You

For SunEdison Infrastructure Limited

Suresh Babu R.V.

R.V. Suresh Babu

Company Secretary

SunEdison Infrastructure Limited

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SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11(1), 11(4) AND 11B OF SECURITIES AND EXCHANGE BOARD OF INDIA
ACT, 1992 - IN THE MATTER OF SUNEDISON INFRASTRUCTURE LIMITED

1. SunEdison Infrastructure Limited (hereinafter referred to as '**SIL**/'**Company**') is a company listed on Bombay Stock Exchange (hereinafter referred to as "**BSE**"), having its registered office address at 11th Floor, Bascon Futura, New No: 10/2, Old No: 56L, Venkatanarayana Road, T. Nagar, Chennai, Tamil Nadu - 600017. The *Company* is engaged in the business of construction of solar projects, solar rooftops, etc. As per the shareholding pattern of the *Company* for the quarter ending September 2020, the promoters of the *Company* are Sherisha Technologies Pvt. Ltd. (hereinafter referred to as '**STPL**') and Avyan Pashupathy Capital Advisors Pvt Ltd. (formerly known as Avyan Renewable Solar Private Limited and hereinafter referred to as '**APCAPL**') with shareholding of 44% and 42.84% respectively, in SIL and rest 13.16% of total shareholding has been held by 408 public shareholders as on September 30, 2020.
2. It is observed that SIL was originally promoted by Mr. Anil Jain (hereinafter referred to as 'Mr. Jain') and his family who were holding 75% of total shareholding of SIL as on quarter ending September 2019. Vide share purchase agreement dated July 26, 2019 along with addendum to share purchase agreement dated October 07, 2019, existing promoters sold 31% shareholding of SIL to APCAPL (promoted by one Mr. Pashupathy Shankar Gopalan, who is a citizen of the United States of America). Acquisition of shares of SIL pursuant to the share purchase agreement triggered open offer obligation on the part of APCAPL under the provision of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "**Takeover Regulations**"). Accordingly, APCAPL came out with an open offer wherein shares were tendered by eligible shareholders during September 19 to October 03, 2019,

Interim Order in the matter of SunEdison Infrastructure Limited



and consequently, the combined shareholding of the two promoters increased to 86.84% of the total shareholding of the *Company* wherein APCAPL held 42.84% and STPL (promoted by Mr. Jain) was holding 44% of total shareholding of the *Company*.

3. It is observed from the annual report for the Financial Year 2019-20 of the *Company* that the following companies are the subsidiaries of SIL:

- (i) Ishaan Solar Power Private Limited (hereinafter referred to as “**Ishaan**”)
- (ii) SEI Tejas Private Limited (hereinafter referred to as “**SEITPL**”)
- (iii) SEI Solartech Private Limited (hereinafter referred to as “**SEISPL**”)
- (iv) SILRES Energy Solutions Private Limited (hereinafter referred to as “**SILRES Energy**”)
- (v) SIL Rooftop Solar Power Private Limited (hereinafter referred to as “**SIL Rooftop Solar**”)
- (vi) Megamic Electronics Private Limited (hereinafter referred to as “**Megamic Electronics**”)
- (vii) Enrecover Energy Recovery Solutions Private Limited (hereinafter referred to as “**Enrecover Energy**”)

It is further noted that out of the above named subsidiaries, the first 5 companies are wholly owned subsidiaries of SIL and in entities listed at S. No. (vi) and (vii), SIL holds 51% of their respective shareholding.

4. Vide letter dated May 20, 2020, SIL disclosed to BSE that the *Company* has entered into a share subscription and shareholders’ agreement (hereinafter referred to as “**SSHA**”) dated May 19, 2020 with its wholly owned subsidiary SILRES Energy, Mr. Dinesh Kumar Agarwal (hereinafter referred to as “**Mr. Agarwal**”), Mr. Jain, Mr. Pashupathy Shankar Gopalan (hereinafter referred to as “**Mr. Gopalan**”) and Fenice Investment Group LLC (hereinafter referred to as “**Fenice**”) by which Fenice agreed to invest US \$2,500,000 in order to subscribe to compulsorily convertible preference shares (“**CCPS**”) of SILRES Energy at a face value of INR 10/- per CCPS.



5. Subsequently, the *Company*, vide another letter dated July 16, 2020, has disclosed to BSE regarding amendment in the above mentioned SSHA and as per the amended SSHA executed by the *Company* with SILRES Energy, Mr. Agarwal, Mr. Jain, Mr. Gopalan, Fenice and South Lake One LLC ("**South Lake**"), South Lake has also agreed to invest US \$10,000,000 in SILRES Energy in the form of CCPS at a face value of INR 10 per CCPS. For the purpose of this order, Fenice and South Lake are collectively referred to as '**Strategic Investors**'.
6. It is further observed from the Annual Report of the *Company*, filed for the Financial Year 2019-20 that SIL has entered into a Framework agreement dated June 23, 2020 (hereinafter referred to as '**Framework agreement**') with an objective to restructure and transfer the under construction Commercial and Industrial (hereinafter referred to as 'C&I') customers' business and certain other businesses of the *Company* to promoter entity (STPL) or the related entity of the *Company* namely SunEdison Energy Solutions Private Limited (hereinafter referred to as '**SESPL**'). The same was also disclosed by the *Company* to BSE vide its letter dated June 24, 2020. As per the said disclosure, the key terms of the Framework agreement as disclosed by the *Company* in its Annual Report for FY 2019-20 are as under:

"The Company entered into a Framework agreement dated June 23, 2020 with South Lake LLC (South Lake), Fenice Investment Group LLC (Fenice), Pashupathy Shankar Gopalan, Anil Jain, SILRES Energy Solutions Private Limited, Pashupathy Capital Pte Limited, Sherisha Infrastructure Private Limited, Sherisha Technologies Private Limited and Avyan Pashupathy Capital Advisors Private Limited (referred to as the Framework agreement). The Framework agreement intends to restructure and transfer the under construction Commercial and Industrial customers' business and certain other businesses of the Company to SunEdison Energy Solutions Private Limited which is a joint venture between a company proposed to be set up in the United Kingdom by Pashupathy Capital Pte Limited, South Lake and Fenice.

The proposed restructuring is being undertaken to primarily separate the completed projects from the under development projects and transfer the under

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development projects along with the engineering, procurement and construction (EPC) business and the Trademark SunEdison by way of a slump sale on a going concern basis to SunEdison Energy Solutions Private Limited for a consideration of INR 45 crores. The businesses referred to in such agreement which are going to be structured and transferred include (hereinafter referred to as 'the carve out business');

- 1) EPC business segment (Rural and C&I) and the Trademark which is an intangible asset of the Company*
- 2) All equity shares held as investments in Ishaan Solar Power Private Limited, SILRES Energy Solutions Private Limited, Megamic Electronics Private Limited and Enercover Energy Recovery Solutions Private Limited. Prior to the transfer of such shares the equity shares held by the Company in SEI Tejas Private Limited will be transferred to Ishaan Solar Power Private Limited*
- 3) Sherisha Solar Private Limited, which is currently held by SIL Rooftop Private Limited (subsidiary of the Company) will be converted into Sherisha Solar LLP. 36% of the partnership interest, constituting 99% of the economic interest, of such LLP will also be transferred.*

The slump sale is proposed to be completed by way of a Business Transfer Agreement to be executed once the valuation of the businesses and subsidiaries being transferred is undertaken, subject to the approval of the shareholders. Even though the purchase consideration has been agreed for the slump sale, the impact of the Framework agreement cannot be ascertained since the underlying values of the assets and liabilities of the carved out business is yet to be determined."

7. Thereafter, vide letter dated November 18, 2020, the Company informed BSE that the Board of Directors of the Company, in their meeting on the same day, approved to convene the Extraordinary General Meeting (EGM) on December 11, 2020. Further, the Notice of EGM was also attached with the said letter wherein following three agenda items for the EGM have been mentioned :

- (i) *Ratification of the Framework agreement entered into by the Company on June 23, 2020.*

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- (ii) *Approval for the conversion of the outstanding loan advanced by Sherisha Technologies Private Limited to SIL Rooftop Solar Power Private Limited including all accrued interest, amounting to INR 8,98,66,390 into equity shares of SIL Rooftop Solar Power Private Limited*
- (iii) *Approval of the transfer of Identified Businesses by the Company to SunEdison Energy Solutions Private Limited.*

8. Subsequently, pursuant to receipt of a complaint from a complainant ('**complaint**') alleging sale of assets of the *Company* to promoters or its related entities on a slump sale basis at erroneous and reduced valuation, SEBI conducted examination in the matter of SIL. The gist of allegations levelled in the said complaint is as follows:

- a. The *Company*, in its attempt to undertake slump sale of "substantially the whole of the undertaking" at extreme low valuation to a new company created by the majority shareholders of the *Company* has reduced valuation of its various business verticals without any reasoning.
- b. The valuation of assets of Agri Business and C&I business which are being sold to a new company has been reduced from INR 228.55 Cr. to INR 62.75 Cr. in the balance sheets just in a period of six months, before the slump sale of the assets without any clarification.
- c. In the notes to accounts of the financial results for quarter ending June, 2020 as well as September, 2020, it is mentioned that the slump sale is being carried out at INR 45 Crores which must have been arrived at after negotiations, assessment and studies by the management. However, in the EGM notice, the same has been further reduced to INR 24.6 Crores only without any reasoning. No intimation of almost 50% reduction in deal price was given to stock exchange. When asked for reasons behind such reduction in value, the *Company* didn't give any response.
- d. In EGM the approval has been sought for SILRES Energy Solutions Private Limited to receive an investment of US \$2,500,000 from Fenice and US \$10,000,000 from South Lake. This transaction is not a standalone transaction and is part of overall Framework agreement. It was confirmed in email by the *Company* that the money has already been received. The *Company* has

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already even executed part of the agreement without waiting for shareholders' approval. This is serious violation and shows how the affairs have been managed to defraud minority shareholders.

9. Primarily it has been alleged in the Complaint, *inter-alia*, that the proposal of restructuring of the *Company* including sale of assets of the *Company* on slump sale basis to **SESPL**, which is a related party of SIL falling within the meaning of Section 2(76) of Companies Act, 2013, for a lump sum consideration of INR 26.42 Crores is a fraud being committed upon the minority shareholders by the *Company* by concealing material facts from the shareholders and by not disclosing the same to the investors in general.
10. It is noted from the disclosures of SIL that it has entered into a Framework agreement with various entities as narrated above which intends to restructure and transfer the under construction C&I customers' business and certain other businesses of the *Company* to **SESPL**, which is a joint venture between SIPL (a company promoted by Mr. Jain) and a company proposed to be set up in the United Kingdom by Pashupathy Pte, South Lake and Fenice. It was also stated that, as a part of the Framework agreement, SILRES Energy would receive an investment of US \$2,500,000 from Fenice and US \$10,000,000 from South Lake. Further, as per the disclosure dated November 19, 2020 of SIL to BSE, certain identified businesses of SIL, as mentioned below, would be transferred to **SESPL** for a consideration of INR 26.42 Crores:
 - a. 99.99% shareholding of SIL and 0.01% nominal shareholding held by nominee shareholder—Mr. Gopalan, on a fully diluted basis held in Ishaan; prior to that, 99.99% of the shareholding of SIL and 0.01% nominal shareholding held by nominee shareholder—Mr. Jain, on a fully diluted basis in SEITPL, which is to be transferred to Ishaan which, in turn, will stand transferred along with the transfer of shareholding of Ishaan to **SESPL**;
 - b. Class A partnership interest to be acquired by the *Company* in Sherisha Solar LLP (being the class of partnership interest which represent 36% of the capital contribution and 99.99% of the economic interest in the revenues, profits and



losses of Sherisha Solar LLP). Sherisha Solar LLP will have the following subsidiaries with ongoing projects ('ongoing projects SPV'):

- (i) Broil Solar Energy Private Limited (99.99% and 0.01% nominal shareholding held by nominee shareholder–Mr. Jain, on a fully diluted basis), having the following subsidiaries:
 - A. SunEdison Rooftop Solar SPV 6 Private Limited (holding 99.99% and 0.01% nominal shareholding held by nominee shareholder–Sherisha Solar LLP on a fully diluted basis);
 - B. SIL Jupiter Solar Private Limited (holding 99.99% and 0.01% nominal shareholding held by nominee shareholder –Sherisha Solar LLP, on a fully diluted basis);
 - C. SIL Mercury Solar Private Limited (holding 99.99% and 0.01% nominal shareholding held by nominee shareholder – Sherisha Solar LLP, on a fully diluted basis); and
 - D. SIL Neptune Solar Private Limited] (holding 99.99% and 0.01% nominal shareholding held by nominee shareholder–Sherisha Solar LLP, on a fully diluted basis);
- (ii) Kiln Solar Energy Private Limited (holding 99.99% and 0.01% nominal shareholding held by nominee shareholder–Mr. Jain, on a fully diluted basis);
- (iii) Sherisha Rooftop Solar SPV Three Private Limited (holding 74% on a fully diluted basis);
- (iv) Sherisha Rooftop Solar SPV Five Private Limited (holding 74% on a fully diluted basis); and
- (v) STPL Horticulture Private Limited (holding 74% on a fully diluted basis);
- c. 99.99% and 0.01% Nominal shareholding held by nominee shareholder–Mr. Agarwal in SILRES Energy;
- d. 51% of the shareholding in Megamic Electronics on a fully diluted basis; and



e. 51% of the equity shareholding in Enreco Energy which corresponds to 40% (forty percent) of the shareholding in Enreco Energy on a fully diluted basis.

11. Further, as per the said disclosure dated November 19, 2020 read with valuation report of SIL Rooftop Solar submitted to SEBI, net worth of the subsidiaries of the *Company* are as under:

Asset	Net Worth	SIL Stake %	INR In Cr.
			Value
SIL Rooftop Solar Power Private Limited	129.27	100%	129.27
Sherisha Solar Pvt Limited ¹	146.16	100%	146.16
SEI Tejas Private Limited	(13.61)	100%	-13.61
SILRES Energy Solutions Private Limited	(0.36)	100%	-0.36
Ishaan Solar Power Private Limited	13.19	100%	13.19
Megamic Electronics Private Limited	0.09	51%	0.00
Enreco Energy Recovery Solutions Private Limited	(0.48)	51%	-0.24
Total			145.14

Based on the above, it appears *prima facie* that as per the EGM Notice dated November 18, 2020, the *Company* decided to sell assets with net worth of INR 145.14 Crores for a consideration of INR 26.42 Crores.

12. At the same time, vide the same notice dated November 19, 2020, SIL also sought approval in the EGM for the conversion of the outstanding loan advanced by STPL (promoter entity of SIL) to SIL Rooftop Solar including all accrued interest, amounting to INR 8,98,66,390 into 89,86,639 equity shares of SIL Rooftop Solar amounting to 99.89% of total shareholding of SIL Rooftop Solar. In the said notice, SIL disclosed the net worth of SIL Rooftop Solar as INR 129.27 Crores.

13. On further examination, it has been noticed that as per disclosure made by the *Company*, the net worth of certain businesses namely Rural and Commercial & Industrial (C&I) segment businesses has been shown/disclosed to have reduced drastically within a short duration of six months. The combined net worth of Rural

¹ Value of SSPL derived from valuation report of SIL Rooftop Solar submitted by the *Company* to SEBI.



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and C&I segment as disclosed for the quarters ending March, June and September 2020 can be seen in the below table:

INR in Crores

Rural + Commercial and Industrial Segment	Mar-20	Jun-20	Sep-20	Change over Mar-20 (%)
Assets (A)	228.55	216.14	62.75	-73%
Liabilities (L)	51.77	77.55	93.11	80%
Net worth (A-L)	176.78	138.59	-30.36	-117%

14. In the light of the above factors and issues raised in the complaint, SEBI sought comments from the *Company* on the aforesaid points to find out the rationale as to how the above stated slump sale of the subsidiaries to related entity is a prudent business decision and is in the interest of the shareholders of the *Company* including the interest of the public shareholders. SIL, vide its emails dated December 24, 2021, January 07, 2021, January 12, 2021, January 20, 2021, January 25, 2021, January 27, 2021, February 02, 2021 and February 05, 2021 has submitted its response along with certain documents. At the same time, SEBI also independently sought comments from BSE which have been submitted by BSE vide its email dated January 01, 2021. Explanations furnished by SIL are, *inter alia*, as under:

- a. *With respect to change in net worth of segment, the Company stated that the change is merely on account of re-grouping of the assets between the segment assets (i.e. Rural segment and C & I segment) and corporate assets, and there is no reduction in the book value of assets at an entity level. As captured in the quarterly financial results of SIL for the quarter ended September 2020, the total assets of SIL (on a consolidated basis) have increased from INR 308.10 Crores (as on March 31, 2020) to INR 427.88 Crores (as on September 30, 2020). The increase in liability is in the normal course of business as evident from the increase from March 2020 to September 2020 since the Company is in the process of establishing multiple new projects as evident from the increase in assets.*
- b. *Further, the Company stated that segment wise grouping of assets and liabilities disclosed vide quarterly financial result for quarter ended September*



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2020 was wrong and submitted new segment wise division of assets and liabilities.

- c. As per the Company the book value of the assets and liabilities being transferred as part of slump sale are as under:

<i>INR in Crores</i>	
<i>Particulars</i>	<i>Amount</i>
<i>Fixed Assets</i>	1.17
<i>Investment in subsidiaries</i>	5.12
<i>Investment in Sherisha Solar LLP</i>	18.67
<i>Current Assets</i>	74.01
<i>Total book value of assets being transferred</i>	98.97
<i>Less: Current liabilities and Borrowings</i>	(84.00)
<i>Net assets being transferred</i>	14.97

- d. The Company further stated that the book value of net assets which are being transferred as part of slump sale is just INR 14.97 Crores. The above net assets of INR 14.97 Crores are being transferred at a consideration of INR 26.42 Crores, which is far above than the fair value determined as per the independent valuer. From the above, it is evident that there is no discount to the book value of assets being transferred as part of slump sale. The Company also stated that the current valuation of the slump sale is based on the provisional financial statement as on August 31, 2020 and may be subject to working capital adjustments and any other adjustments as per the Business Transfer Agreement as on the actual date of transfer.
- e. With respect to SIL Rooftop Solar, the Company stated that redeemable preference shares worth INR 146 Crores were issued by SIL Rooftop Solar to STPL. While the total net worth of SIL Rooftop Solar is INR 129.28 Crores, the same is represented by redeemable preference shares issued to STPL. Hence, the value of SIL Rooftop Solar attributable to the equity shareholders/SIL is negative i.e. INR (0.78) Crore.
- f. With respect to the transfer of ownership of SIL Rooftop Solar in lieu of conversion of loan of INR 8.99 Crores, the Company stated that the net worth of SIL Rooftop Solar attributable to equity shareholders continues to be negative (-INR 0.81) as on August 31, 2020.



- g. With respect to the business rationale for selling of the subsidiaries on a slump sale basis, the Company stated the following:

“The net assets of INR 14.97 Crores are being transferred at a consideration of INR 26.42 Crores, being the fair value determined as per the independent valuer. Thus, it is evident that the slump sale is not happening at a value lower than the net-worth. The projects undertaken by the subsidiary companies, as mentioned in the aforementioned corporate announcement, have been in dire need of equity funding and have strict timelines for completion of the projects as per the PPA's signed with off-takers. The management of SIL has made several attempts to procure equity funding for these projects from various investors in India and overseas. While the management of SIL eventually managed to engage with Fenice and South Lake, who agreed to provide equity funding for these project companies, one of the conditions for their investment was that the businesses would be sold to a separate private limited company which will be executing these projects. Further, SIL was to ensure that it will not take up any new projects in Commercial and Industrial Rooftop Segment as these projects need continuous equity to build. The investors also wanted to ensure that the promoters of SIL contribute some equity in the newly setup private limited company and participate in the management to complete these projects and develop other businesses. Non-performance of these projects will lead to huge liability and blacklisting of the company with Railways. It was pursuant to this and the terms of the Framework agreement dated June 23, 2020, that the management approached the shareholders to seek approval for the Slump Sale.

- h. With respect to the audit qualification that liabilities aggregating to INR 14.5 Crores do not have sufficient audit evidence, the Company stated that the said liability is accounted in the books of the subsidiaries of SIL i.e. Ishaan and SEITPL. These two entities were acquired by the Company in the year 2018. Considering that the said liability are legacy issues acquired by the Company, the management is coordinating with the erstwhile owners and taking necessary steps to reconcile the same.
- i. With respect to additional contribution of INR 18.67 Crores in Sherisha Solar LLP, the Company stated that the additional contribution to Sherisha Solar LLP is being made considering the business needs of the Sherisha Solar LLP. Such contribution to Sherisha Solar LLP has been factored while arriving at the consideration for slump sale and the same can be verified with the valuation report.



- j. *The Company provided copy of the valuation report dated November 19, 2020 by CA Pitam Goel, valuation report dated November 12, 2020 provided by M/s. VPTP & Co. and copy of the agenda and minutes of board/ audit committee/ shareholder meetings in which the proposal for slump sale and Framework agreement were deliberated.*

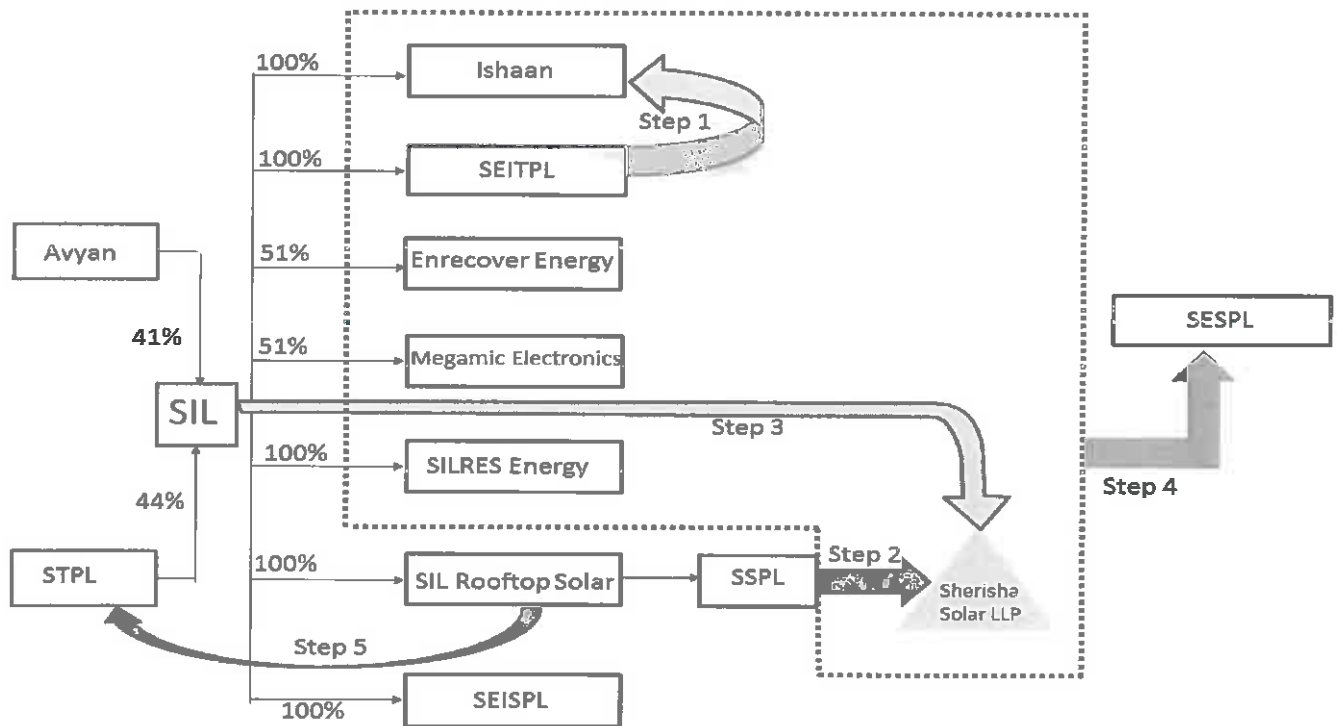
Prima facie Interim Observations

15. Having considered the issues raised in the complaint, the material available on record and the replies and the documents submitted by the *Company*, it is noted that the *Company* has disclosed entering into a Framework agreement with South Lake, Fenice, Mr. Gopalan, Mr. Jain, SILRES Energy, Pashupathy Pte, SIPL, STPL and APCAPL with the stated objective of receipt of investment in SILRES Energy of US \$2,500,000 from Fenice and US \$10,000,000 from South Lake. Further, vide the said Framework agreement, it was also agreed amongst the parties to restructure the businesses of *Company* and its subsidiaries to, *inter alia*, separate the under-construction solar power projects from the commissioned solar power projects and, finally, to transfer certain businesses to **SESPL** on a slump sale basis at a consideration of INR 26.42 Crores.
16. As a result of such internal structuring and transfer, the status of certain direct and step-down subsidiaries of the *Company* would likely to be impacted in the following way:
- (i) Shareholding of SIL in SEITPL, a wholly owned subsidiary of SIL, will be transferred to **Ishaan**, another wholly owned subsidiary of SIL.
 - (ii) Shareholding of SIL in Ishaan and SILRES Energy, both being wholly owned subsidiaries of SIL, will be transferred to **SESPL**, a joint venture company between SIPL (a company promoted by Mr. Jain) and a company proposed to be set up in United Kingdom by Pashupathy Pte, Fenice and South Lake.
 - (iii) Shareholding of SIL in Megamic Electronics and Enrecover Energy, wherein it is holding 51% shares in both these companies, will be transferred to **SESPL**.



- (iv) Sherisha Solar Private Limited (a subsidiary of SIL Rooftop Solar and step-down subsidiary of SIL and hereinafter referred to as 'SSPL') will be converted to Sherisha Solar LLP and therein, SIL will acquire its class A partnership interest (36% of the partnership interest, constituting 99% of the economic interest) by investing INR 18.67 Crores in the same. Thereafter, shareholding of the said LLP will be transferred to **SESPL**.
- (v) Conversion of loan and accrued interest amounting to INR 8,98,66,390/- owed by SIL Rooftop Solar to STPL into 89,86,639 equity shares of SIL Rooftop Solar at par amounting to 99.89% of the shareholding of SIL Rooftop Solar.

17. The initial structure of SIL and the step-by-step acts leading to the final structure in terms of framework agreement is being explained in the below diagram:



Wherein

Step 1: Transfer of 100% shareholding of SIL in SEITPL to Ishaan.

Step 2: Conversion of SSPL into Sherisha Solar LLP



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Step 3: Investment of INR 18.67 Crores by SIL in Sherisha Solar LLP leading to acquisition of 36% of partnership interest and 99.99% economic interest in it by SIL. It is important to note here that the amount to be invested by SIL into Sherisha Solar LLP was only disclosed to shareholders on December 16, 2020 i.e. subsequent to the EGM. The said issue has been discussed and dealt with elsewhere in this order.

Step 4: Transfer of Ishaan (along with SEITPL), Enrecover Energy, Megamic Electronics, SILRES Energy and Sherisha Solar LLP (36% partnership interest with 99.99% economic interest) to SESPL for a consideration of INR 26.42 Crores.

Step 5: Conversion of a loan of INR 8.99 Crores from STPL to SIL Rooftop Solar into 89,86,639 equity shares at par making STPL 99.89% shareholder of SIL Rooftop Solar.

18. It is noted that the *Company*, in its disclosure dated November 19, 2020, has declared the abovementioned transactions as related party transactions being entered into at arms' length distance. In support of this, the *Company* has also mentioned that the transactions are being done after doing the necessary ground work including consideration of valuation undertaken by independent valuers viz. M/s. VPTP & Co. and CA Pitam Goel.

19. It is noted from the material available on record that the valuation of various segments and various subsidiaries of the *Company* are not appearing to be fair and transparent and are containing abnormal changes, more particularly, the disclosures pertaining to drastic reduction in the net worth during a six months' period starting from end of March 2020 to September 2020. In this regard, it is noted that the valuations of Rural and C&I Segment of the business of the *Company* (both of which are projected to be transferred to **SESP**L in terms of the conditions of the said Framework agreement) have been disclosed as reduced to a large extent since March 2020. The net worth of the segments as on March 2020, June 2020 and September 2020, as per the disclosures made by the *Company* to BSE, is tabulated below:



Table 1: Segment wise distribution of assets, liabilities and net worth of the Company, as disclosed along with quarterly financial statements

INR in Crores

Segment →	Rural Segment			C&I Segment			Combined net worth of Rural and C&I Segment	Others		
	Assets	Liabilities	Net worth	Assets	Liabilities	Net worth		Assets	Liabilities	Net worth
Quarter ended ↓										
March 2020	68.83	41.35	27.48	159.72	10.42	149.3	176.78	79.56	144.29	-64.73
June 2020	39.37	35.13	4.24	176.77	42.42	134.35	138.59	81.32	33.28	48.04
September 2020	24.54	17.46	7.08	38.21	75.65	-37.44	-30.36	365.13	140.10	225.03

From the details mentioned in the above table, if I add up the Rural and C&I Segments, I see that the Company has disclosed their combined net worth as INR 176.78 Crores as on March 31, 2020. The said net worth has been shown to have reduced to INR 138 Crores as on June 30, 2020 and thereafter further reduced to negative (INR 30.36 Crores) as on September 30, 2020. Thus, I see that the net worth of Rural and C&I segments have been shown to have reduced exponentially within a period of six months starting from March 2020 so much so that net worth of C&I segment has eroded completely and become negative from a position of almost INR 150 Crores in positive as on quarter ended March 2020. I further note that the Company has not provided any tangible explanation either in the quarterly/annual financial statements or in its communications with SEBI, to justify such a drastic reduction in the value of these assets. In fact, vide letter dated February 04, 2021, the Company submitted to SEBI that 'our segment disclosure for the quarter ending 30 September 2020 was erroneous' and has submitted a new segment wise classification of its assets and liabilities, as mentioned below:

Table 2: Segment wise distribution of assets, liabilities and net worth of the Company, as submitted to SEBI

Segment →	Rural Segment			C&I Segment			Combined net worth of Rural and C&I Segment	Others		
	Assets	Liabilities	Net worth	Assets	Liabilities	Net worth		Assets	Liabilities	Net worth
Quarter ended ↓										
March 2020	68.83	41.35	27.48	159.72	51.12	108.60	136.08	79.56	103.59	-24.03
June 2020	39.37	35.13	4.24	176.77	42.42	134.35	138.59	153.33	167.14	-13.81
September 2020	42.06	31.47	10.59	199.38	47.44	151.94	162.53	186.44	154.29	32.15

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First of all, I note from a comparison between the Table 1 & 2 that the *Company* has made apparent erroneous disclosures regarding its segment wise assets and liabilities not only in the quarterly disclosure for quarter ended September 2020 as claimed by it, but such erroneous disclosures go as far back as to quarterly disclosure for quarter ended March 2020.

Secondly, from the aforesaid new segment wise statement of assets and liabilities submitted by the *Company*, I note that the combined net worth of Rural and C&I segments has been increasing continuously increasing from INR 136.08 Crores as on March 31, 2020 to INR 138.59 Crores as on June 30, 2020 and further to INR 162.53 Crores as on September 30, 2020. This is completely in contrast with the disclosure already made to public wherein, the assets and net worth of both these segments had been disclosed having drastic reduction.

The huge amount of discrepancies in disclosures made to public and information submitted to SEBI further raises strong suspicion, when the same is analyzed in the backdrop of the fact that the said businesses of the *Company* have been agreed to be transferred by way of the abovementioned Framework agreement dated June 23, 2020. In the absence of any reasonable justification, the said differences between the disclosures made to public *vis-à-vis* SEBI raise a *bonafide* suspicion about the existence of fairness and transparency in the conduct of the *Company* in regards with disclosure of true and correct picture to the shareholders especially when *Company* is involved in such an important transaction.

20. The *Company* has submitted that there is no reduction in the book value of assets at the entity level. The *Company* has claimed that, the total assets of SIL (on a consolidated basis) have in fact increased from INR 308.10 Crores (as on March 31, 2020) to INR 427.88 Crores (as on September 30, 2020) as a result of the said re-grouping of assets. The *Company* has further stated that the increase in liability is due to establishment of multiple new projects which is evident from corresponding increase in value of assets in the books of the *Company*.
21. Having gone through the record, I find that the *Company*, in its communications exchanged with SEBI, has not furnished any justification substantiating the claim

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that the value of the total assets of the *Company* have in reality increased on account of re- grouping. I do not find any disclosure either to the public shareholders or any submission to SEBI by the *Company* explaining the change in the classification of the segment wise assets and liabilities in its financial statements as well as the rationale for re-grouping of the assets and liabilities despite specific questions raised to the *Company* by SEBI on this aspect. It also remains unexplained as to how there has been substantial depletion of asset value of Rural segment between quarters ended March 2020 and June 2020 without any corresponding reduction in liabilities under the said segment.

22. The above claim and disclosures pertaining to depletion in the value of the assets warrant reconsideration as they lack credibility in view of the acknowledgment made by the *Company* itself in its letter dated February 04, 2021 to SEBI stating that the disclosure in its quarterly financial results are not true and correct.
23. I also note that the *Company* has agreed under the Framework agreement to transfer its assets to **SESPL** only for a consideration of INR 26.42 Crores. In this respect, I note from the disclosure made by the *Company* in its corporate announcement dated November 19, 2020 and financial statements of SIL Rooftop Solar, submitted by the *Company* to SEBI along with valuation reports, that the net worth of these subsidiaries agreed to be transferred to **SESPL**, seems to be INR 145.14 Crores², whereas the same are being sold for a mere consideration of INR 26.42 Crores only.
24. The *Company*, apparently in order to present a fair treatment to the shareholders of SIL and to justify the transfer of assets to SESPL at INR 26.42 Crores, has undertaken valuations of different assets being part of the transactions under the said Framework agreement by engaging two purportedly independent valuers viz. M/s VPTP & Co and CA Pitam Goel. However, a cursory view of the said valuations reports show that both the valuation reports have been signed by Mr. Pitam Goel only; making it difficult to accept that the said valuation reports can

² Including value of INR 146.14 Crores of SSPL, as obtained from financial statement of SIL Rooftop Solar and combined value of (-) 1.02 Crores of stake of SIL in rest of its subsidiaries proposed to be transferred to SESPL.



actually be called fair and independent to each other. Interestingly, it is also noted that even the valuation of Sherisha Solar LLP has been conducted and signed by Mr. Pitam Goel only.

25. In the course of preliminary examination, queries have been raised before the *Company* asking it to explain and justify the aforesaid transfer of assets appearing to be worth of INR 145.14 Crores for a paltry sum of INR 26.42 Crores only. In my view, the reply submitted by the *Company* stating that those assets are being transferred at a fair value based on the provisional financial statement as on August 31, 2020, is bound to be fraught with contradictions on the following grounds: -

- (a) The combined net worth of the assets of the entities agreed to be transferred under the Framework agreement seems to be INR 145.14 Crores, whereas the consideration for the transfer of these entities has been disclosed as INR 26.42 Crores. The *Company* has failed to disclose to the shareholders the rationale for the said transfer at such a small consideration and has further failed to provide satisfactory reply to SEBI. It is interesting to note that, while the *Company* has disclosed the net worth of all its subsidiaries which are being subjected to slump sale, it has conveniently concealed mentioning the net worth of Sherisha Solar LLP or its predecessor SSPL in the said disclosure, which is a step-down subsidiary of the *Company* (being a subsidiary of its wholly owned subsidiary SIL Rooftop Solar), although 100% shareholding of SIL Rooftop Solar in SSPL was valued at INR 146 Crores by the valuer appointed by the *Company* itself. This information regarding actual worth of the said step-down subsidiary company has been concealed by SIL from the shareholders even while seeking approval from them in the EGM held on December 11, 2020 for various transactions under the Framework agreement.
- (b) Valuation report dated November 09, 2020 mentions that "*Majority of the Assets of SIL Rooftop is in the form of 100% equity holding of SSPL and hence book value represent the fair value*". However, the same valuer, while arriving at the valuation of 36% partnership interest of SIL Rooftop Solar in Sherisha Solar LLP (earlier SSPL), has appeared to have failed in taking into



consideration the book value, which represented the fair value of its assets, and has valued the assets of Sherisha Solar LLP at INR 36.70 Crores. The report does not provide any rationale justifying the low valuation of the assets so arrived at and has ignored the actual book value of Sherisha Solar LLP, thereby raising doubts and giving an impression that arbitrary valuations have been assigned to the assets of SIL and SIL Rooftop Solar.

- (c) It has been further observed that the valuation reports do not contain any working or work sheets in support of valuing any of the assets (such as investment in shares, loans & advances, etc.). The reports furnished by the *Company* justifying the valuations of the assets proposed to be transferred under the Framework agreement appear to have been prepared based on arbitrary values assigned to the assets and liabilities without providing any basis/rationale to the said calculations. The reports further contain a statement that the valuer has relied upon the information provided by the *Company*. Considering that the valuation has been done on the basis of management certified financial information as on August 31, 2020, whose accuracy has become highly doubtful in the light of the admission of the *Company* vide letter dated February 04, 2021, the complete valuation exercise appears to have become sham and redundant and may not be appropriate to rely upon. As the valuers have not followed any independent procedures for valuing the assets and have simply relied on the management certified financial statement to arrive at the valuation of the assets, the said valuation reports have become highly doubtful and inaccurate thereby warranting fair and correct valuation exercise to be undertaken to evaluate the fairness of transactions pursuant to Framework agreement.
- (d) At the same time, one of the valuation reports dated November 12, 2020 by M/s VPTP & Co. contains a statement that its appointment as the valuer also happened on November 12, 2020; thereby giving an impression that the valuer has given its valuation report within a day, which again casts serious doubts on the genuineness of the valuation report. Such a claim and disclosure by the valuer, *prima-facie*, creates a strong suspicion that the valuation exercise was



only a paper exercise and no actual scrutiny/due diligence was undertaken by the valuer before assigning the value to assets.

(e) Further, in its reply dated December 24, 2020, the *Company* has stated that the net worth of various subsidiaries (including its major subsidiary SIL Rooftop Solar), which are proposed to be sold in the slump sale, are negative. However, in the corporate announcement dated November 19, 2020 and in the financial statements of SIL Rooftop Solar, the *Company* had already disclosed the net worth of its subsidiaries including SIL Solar Rooftop as INR 128.10 Crores, sending a clear message that the *Company* has been providing contradictory information to shareholders and SEBI. Therefore, the explanations furnished by the *Company* to justify the said slump sale at a consideration of INR 26.42 Crores, raise further concerns about their credibility.

(f) Considering that the slump sale is being made to a related entity, such a significant undervaluation of the assets is a matter of serious concern from the perspective of the interest of the public shareholders. The suspicion over the *Company's* actions in valuing its assets become more pronounced in the light of the new division of assets and liabilities submitted by the *Company* vide letter dated February 04, 2021. First of all, the said division of assets and liabilities was not available to the shareholders at the time of voting on the proposals relating to the transactions being undertaken by the *Company* in terms of the Framework agreement. Secondly, the information subsequently furnished vide the said letter rather reveals glaringly how the assets appear to have net worth of INR 162.53 Crores are being transferred to related entities for a consideration of only INR 26.42 Crores.

26. I further observe that in the notes to the financial statement for the quarter ending June 2020, the *Company* has disclosed that it will sell assets under a Framework agreement to SESPL at a consideration of INR 45 Crores. Subsequently the *Company* sought approval from shareholders to transfer its assets to SESPL for a total consideration of INR 26.42 Crores only thereby reducing the aforesaid amount already reported in the financial statements by more than 40% towards



A handwritten signature in blue ink, appearing to be the initials 'AM' followed by a long horizontal stroke.

the consideration of the said transactions for which no justification has been furnished by the *Company* at any point of time to the shareholders either regarding basis of valuation of INR 45 Crores or about the reasons for subsequent reduction in the value of those assets to INR 26.42 Crores.

27. It has been stated by the *Company* during the present proceedings that the book value of the assets and liabilities, being transferred as a part of a slump sale, comes to INR 14.97 Crores only for which a consideration of INR 26.42 Crores is not only fair but far above the actual value thereby applying no discount to the book value of those assets. The *Company* has further stated that the current valuation so adopted for the slump sale is based on the provisional financial statement as on August 31, 2020, which may be subject to working capital adjustments or any other adjustments as per the Business Transfer Agreement, as on the actual date of transfer. However, keeping in view the aforesaid preliminary observations including the anomalies observed between the quarterly financial results disclosed to BSE *vis-à-vis* those submitted to SEBI by the *Company* and the valuation reports, the explanation of the *Company* doesn't appear to be standing on sound and convincing grounds, more particularly when no explanation has been advanced by the *Company* to justify as to why an entity is willing to pay even INR 26.42 Crores for assets having book value of INR 14.97 Crores, assuming for a moment that the explanation of the *Company* regarding the valuation of assets is in order.

28. Further, vide the aforesaid EGM, the *Company* has sought approval for conversion of a loan of 8.99 Crores granted by STPL (promoter of SIL) to SIL Rooftop Solar, into 89,86,639 equity shares of SIL Rooftop Solar. Consequent to this conversion, STPL will acquire 99.89% of the total shareholding of SIL Rooftop Solar. The *Company* has advanced an explanation justifying the aforesaid transaction by stating that the net worth of INR 129.28 Crores of SIL Rooftop Solar consists of redeemable preference shares (RPS) worth of INR 146 Crores already issued by SIL Rooftop Solar to STPL from which, after deducting all the liabilities, the net worth of SIL Rooftop Solar attributable to the equity shareholders in fact would come down to INR (-)0.78 Crore. In this regard, it is observed that as per disclosure made to the public at large, SIL Rooftop Solar was disclosed as having

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net worth of INR 129.27 Crores, whereas vide letter dated December 24, 2020 addressed to SEBI, the net worth of the above company has been shown as negative (INR 0.78 Crore). Therefore, the disclosures made by the *Company* vis-à-vis its submissions to SEBI are contradictory w.r.t. the Framework agreement and the public disclosure also failed to explain the treatment meted out to the RPS of SIL Rooftop Solar. Consequently, the non-disclosure of true and correct position creates an impression that STPL would continue to hold the RPSs, the rationale of which remains unsubstantiated. The absence of true and proper disclosure indicates that a net worth of INR 129.27 Crores is being transferred out to STPL in lieu of a loan of INR 8.99 Crores again raising a suspicion in respect of the claims of the *Company* regarding its arms' length transaction while executing the said deal. Consequently, it appears that the promoter entity (STPL) is likely to gain undue benefit of around INR 120 Crores (INR 129.27 Crores - INR 8.99 Crores) in this deal at the cost of public shareholders of the *Company*. It is further pertinent to note that as per the proviso to section 55(2) of Companies Act, 2013, a RPS can either be redeemed out of the profits of a company which would otherwise be available for payment of dividend or can be redeemed out of the proceeds of a fresh issue of shares made for the purposes of such redemption. Additionally, given the fact that SIL Rooftop Solar is shown to have sustained a loss in Financial Year 2019-20, the liability of redemption of RPS may not arise in these circumstances which again casts doubts on the version advanced by the *Company*.

29. It is also noted that the *Company* vide its letter dated December 24, 2020 to SEBI, has confirmed that it has already received the investment amount of US \$2,500,000 and US \$10,000,000 respectively from Fenice and South Lake, amounting to INR 85 Crores (approx.), which Fenice and South Lake have invested in SILRES Energy. I also note that as per the terms of the Framework agreement, the entire equity investments of SIL in SILRES Energy is also to be transferred to **SESPL**. Considering the fact that investment has already been made by Fenice and South Lake, a fact not available in public domain, it certainly appears to be a material information for the purpose of sharing with shareholders in the EGM to enable them to take an informed decision. The fact that a company,



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wherein an investment to the tune of INR 85 Crores is received, is likely to have substantial future business potential. Hence, by transferring out such an entity, the promoters are alienating lucrative assets of the *Company* and depriving the shareholders of SIL of the potential economic benefits in future. In this respect, based on the limited materials available on record and also due to the failure on the part of the *Company* to disclose the said receipt of funds, it would not be proper to sanctify the decisions of the *Company* as prudent and in the interest of investors, rather, it becomes imperative in the facts of the matter that the entire issue requires an investigation in the interest of investors of securities market.

30. As noted above, the *Company*, subsequent to the approval of the transactions to be undertaken in respect to the Framework agreement made a corporate announcement dated December 16, 2020 wherein it disclosed making an investment of INR 18.67 Crores in Sherisha Solar LLP, one of the entities proposed to be transferred out to SESPL as part of the slump sale, for which, the SIL would acquire a 36 % stake in the Sherisha Solar LLP. Thus, the decision of fresh infusion of INR 18.67 Crores by SIL in Sherisha Solar LLP effectively reduces the net sale consideration of slump sale to only around INR 7.75 Crores (INR 26.42 Crores – INR 18.67 Crores).
31. In this regard, the *Company* has attempted to justify the said transaction by stating that the additional contribution to Sherisha Solar LLP is being made considering the business needs of the Sherisha Solar LLP and same has already been factored in while arriving at the consideration for slump sale. From the information furnished by the *Company*, it is noted that while the information regarding acquisition of stake in Sherisha Solar LLP by SIL was disclosed to the shareholders by way of EGM notice, however, no information has been furnished by the *Company* to SEBI to substantiate that the shareholders were also informed about the sum of amount proposed to be infused by SIL in Sherisha Solar LLP, despite the fact the said investment/infusion amounts to more than 70% of the total consideration of slump sale.
32. From the minutes of Audit Committee meeting of SIL held on October 12, 2020, it is noticed that the Audit Committee of SIL granted approval for transfer of equity



shares/optionally convertible RPS held by SSPL in certain project companies, defined therein as 'completed project SPVs', to SIL Rooftop Solar at a consideration of INR 114,87,52,516 out of which, INR 11,10,23,930 would be adjusted against the loan owed by SSPL to SIL Rooftop Solar and remaining amount of INR 103,77,28,930 would be paid upon conversion of SSPL into Sherisha Solar LLP. The valuation report of CA Pitam Goel dated November 12, 2020 mentions that SIL Rooftop Solar is stated to withdraw INR 104.73 Crores from the capital account of Sherisha Solar LLP and repay the said amount against the consideration of INR 103.77 Crores mentioned above. Subsequent to that, SIL Rooftop Solar will again withdraw a sum of INR 6.89 Crores out of capital account of Sherisha Solar LLP. This indicates that, post the above mentioned transactions, SIL Rooftop Solar will be left with assets worth INR 114.87 Crores and cash of INR 6.89 Crores and Sherisha Solar LLP will be left with a cash of INR 103.77 Crores in its books of accounts.

33. The aforesaid arrangement proposed by the *Company* further strengthen the suspicion pertaining to the *bonafide* of the valuation of INR (-)0.78 Crore of SIL Rooftop Solar, as reportedly arrived at by the valuer, despite it possessing assets worth of INR 114.87 Crores and cash of INR 6.89 Crores. Strangely, it is also noticed that the valuation of 36% of class A partnership of Sherisha Solar LLP was arrived at INR 19.46 Crores by the same valuer despite it (Sherisha Solar LLP) having a cash of INR 103.77 Crores in its books, which *prima-facie* creates serious doubts on the fairness of valuation of the assets of SIL Rooftop Solar and Sherisha Solar LLP as valued by the said valuer.

34. From the foregoing discussions, it is noticed that as a part of the above stated restructuring and slump sale, all the subsidiaries of the *Company*, except SIL Rooftop Solar and SEISPL, will be transferred to a related party (**SESPL**) at a meagre price of INR 26.42 Crores wherein, the combined net worth of the said entities appears to be INR 145 Crores. The *Company* has further undertaken to invest INR 18.67 crores in Sherisha Solar LLP to acquire 36% of its shareholding with 99.99% economic interest, which has been again agreed to be transferred to said the same related party (**SESPL**) as a part of same package of transactions; thereby reducing the total consideration of the said package of transaction from

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INR 26.42 Crores to INR 7.75 Crores. At the same time, the majority shareholding of SIL Rooftop Solar along with its completed projects having stated value of INR 114 Crores will be acquired by the promoter STPL by way of conversion of loan of only INR 8.99 Crores. Resultantly, it appears that the assets of the *Company* along with its subsidiaries will be transferred to **SESPL** (related party) and STPL (promoter of SIL) against a net consideration of only INR 7.75 Crores.

35. The *Company* has attempted to justify selling its various subsidiaries and Sherisha Solar LLP on a slump sale basis, by stating that the strategic investors have placed conditions prior to making their investment. The *Company*, in its submissions to SEBI, has stated that the strategic investors have placed following conditions for making investment:

- i. The businesses would be sold to a separate private limited company which will be executing these projects.
- ii. SIL has to ensure that it will not take up any new projects in Commercial and Industrial Rooftop Segment.
- iii. The promoters of SIL are to contribute some equity in the newly setup private limited company and participate in the management to complete these projects and develop other businesses.

The said explanations of the *Company* have not been supported by any document substantiating that the *Company*, having explored and exhausted all other possibilities, has been left with no option but to accept such pre-conditions set out by the strategic investors. The decision to sell the subsidiaries (including the subsidiaries having positive net worth) on a slump sale basis to a related entity on the pretext of meeting certain pre-conditions put forth by the strategic investors despite the gross anomalies noticed in the valuation reports as discussed above, are observed to be sufficient to suspect the genuineness of the entire framework in the absence of any cogent material.

36. Further, vide letter dated January 25, 2021, the *Company* submitted that it had acquired the trademark 'SunEdison' from SunEdison LLC for an overall consideration of US \$325,000 out of which US \$105,000 was paid by the *Company* and balance amount of US \$2220,000 was expected to be offset against the receivable balances from the affiliates of SunEdison LLC to any of the affiliates



of the *Company*. Since there were no such identified receivables in the books of the *Company vis-à-vis* affiliates of SunEdison LLC, the transaction price aggregating to the extent of US \$105,000 (equivalent to INR 73,97,182) turns out to be the actual consideration which has been settled and capitalized in the books of the *Company* as intangible assets. Under the circumstances, the said transaction itself seems suspicious in the absence of any logical justification behind SunEdison LLP not enforcing payment of US \$220,000 from the *Company*. Further, while the said trademark is being transferred to SESPL as the part of Framework agreement, I don't find any mention of valuation of such trademark in any of the valuation exercise undertaken by valuers. This raises further suspicion that an asset acquired by the *Company* at a consideration of INR 73,97,182 is apparently being transferred to SESPL completely free of cost and in the absence of any justification, the said transaction *prima-facie* appears to be adverse to the interest of shareholders of SIL.

37. It is also relevant to note that the present promoters of the *Company* have recently got themselves associated with the *Company*. Whereas, Mr. Jain became promoter of SIL around June 2018, Mr. Gopalan became promoter of the *Company* around June 2019 by acquiring substantial shareholding and board positions. It is expected that they would strive to enhance value of the *Company* for the benefit of the shareholders and to protect the interest of minority investors. However, the promoters have themselves proposed the aforesaid slump sale arrangement in June 2020 in terms of which, it is proposed to transfer out majority of the business and assets of the *Company* to an entity which is related to promoters themselves. The suspicion that the listed company has been used as a device/ artifice to obtain various projects and then siphon out/divert these projects to promoter related entities through slump sale cannot be brushed aside at this stage.

38. In this respect, it is noted that post the slump sale, following assets of the *Company* will stand transferred:

- A. Under-development projects, being under Sherisha Solar LLP and other subsidiary companies of SIL



- B. Engineering procurement and construction (“EPC”) business of the *Company*
- C. The Trademark ‘SunEdison’ and goodwill associated therewith.
- D. Certain completed projects, being sold by Sherisha Solar LLP to SIL Rooftop Solar and thereafter to STPL.

Further, as per the non-compete clause in the Framework agreement, the *Company* will not be able to compete in the aforesaid businesses at any time in the future.

39. The tangible and intangible assets residing in the listed *Company* have potential to bring in future business as well. Therefore, it may not be in the overall interest of the minority shareholders of the *Company* to transfer out majority of the business to promoter related entities. Such a transfer may take colour of siphoning of business opportunities from the shareholders of the *Company* to promoter related entities. Moreover, the principle revenue stream of the listed *Company* is entirely being transferred out to promoter related entities.
40. After the transfer of the aforesaid business and in view of the non-compete clause in the Framework agreement, the *Company* would have left with very few assets and business opportunities. The *Company* would be required to build the new business from a scratch. This not only changes the nature of the *Company* from a mature company to almost a start-up type undertaking but also makes investing in it inherently riskier. After the aforesaid transfer, it may not be possible for the *Company* to obtain sufficient financing in the absence of the cash generating assets, thereby jeopardizing the future business opportunities as well. Considering that the statutory auditors have already qualified the financial statements of the *Company* at a standalone level w.r.t. going concern assumption, the proposed slump sale appears to cast doubts on the going-concern assumption for the *Company* even at the consolidated level.
41. The Statutory auditors have also consistently qualified that liabilities aggregating to INR 14.5 Crores do not have sufficient audit evidence, which amount to 7.5% of net worth of the *Company* on a consolidated basis as on September 30, 2020. It is observed that the said qualification has been raised since the FY 2018-19 for which no evidence has been made available by the *Company* to the statutory

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auditors. The said qualification has been pending for long due to failure on part of the *Company* to resolve the same hence cannot be ignored anymore as the said qualification raises serious concerns over the true and fair nature of the financial statements of SIL. This aspect of the financial statement call for urgent examination as well.

42. In the end, I note that the *Company* has endeavored to justify all the transactions placed for approval in EGM on the basis of a Framework agreement conceived to carry out all the afore discussed transactions based on the respective valuation reports. However, none of the said documents/valuation reports has been shared/disclosed to the shareholders as a part of material for circulation prior to the EGM. These are quite important material events which required to be disclosed to the shareholders but the same appears to have not been shared and disclosed to the public at large. At the same time, the *Company* has also admitted to have not disclosed the true and correct quarterly financial statements for the quarters ended March 2020, June 2020 and September 2020. SIL being a listed company, has to make various disclosures and compliances under different applicable provisions of the Companies Act, 2013 (previously Companies Act, 1956), securities laws including SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 [previously SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009], SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 etc. Like all listed companies, SIL is also required to disclose all material information to the investors to enable them to take informed investment decision in terms of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. If there is any issue of structuring, re-structuring and events which affect the operation of any listed company materially, such information has to be disclosed by the listed company to the stock exchanges where its shares are listed. It has been noticed above that the *Company* has not produced any evidence to substantiate that the material events viz; rationale behind reducing the consideration from INR 45 Crores to INR 26.42 Crores, purpose, object and likely consequences of re-grouping of assets, justification for effecting transfer of assets at a consideration lower than the net



worth or higher than the book value, purpose of infusion of INR 18.67 Crore in Sherisha Solar LLP etc. were duly disclosed to the public shareholders.

43. At the same time, the quarterly financial statements for quarters ended March 2020, June 2020 and September 2020, based on which the valuation of assets proposed to be transferred by the *Company* were determined, have been acknowledged as erroneous by the *Company* itself thereby providing false information to the public for which no justification has been submitted by the *Company*. The non-disclosure of the material events and wrong disclosures in quarterly financial statements *prima facie* appear to be in gross violation of provisions including regulation 30, 31 and 32 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and also apparently contains elements for being called fraudulent in nature under the provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003. Such potentially wrong disclosures and suppression of facts have the potential to induce investors to trade in the scrip of the *Company* either by way of depriving the investors to take an informed decision or to get misled on the basis of the limited as well as factually wrong information released so far by the *Company* for the consumption of the investors in securities market.
44. It is also noticed that there was a sudden spurt in the price and volume in the scrip of the *Company*, more particularly after the announcement of the decision of slump sale in June 2020. The price of the scrip has moved from INR 10 per share in June 2020 and reached to INR 80 in December 2020. The fact that on a standalone basis, the net worth of the *Company* is negative, the rise in the price of the scrip appears to be giving an impression that the shareholders and investors are welcoming the decision and happily acknowledging and approving the transfer of assets in terms of the Framework agreement. Considering the fact that the true and correct information pertaining to the real valuation of different transactions have not been shared with the investors, the quarterly financial results having not incorporated all the relevant factors, important material facts have not been shared in the EGM, various contradictions and anomalies noted in the valuation reports cast serious doubts on their authenticity and more importantly the assets of relatively high in value are being transferred to promoters related entities at

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relatively undervalued price, there appears to be a profound and preponderant ground in this case warranting an urgent investigation into the entire series of transactions as highlighted above before the terms of Framework agreement are acted upon by the *Company* and its related entities.

Further, the rise in the price of the scrip can't be seen in isolation as the same appears to have been due to lack of proper information about the material events pertaining to the aforesaid restructuring exercise being carried out by the *Company* and its group entities which might have sent wrong signals to the market and induced the shareholders and investors into trading in the scrip of the *Company*.

45. I note that Section 11 of the SEBI Act, 1992 ('**SEBI Act**') lays down the functions of SEBI. In particular Section 11(2)(e) of the SEBI Act mandates SEBI to prohibit fraudulent and unfair trade practices relating to securities market, as one of its functions. Additionally, Section 12A of the SEBI Act prohibits certain manipulative and deceptive devices, as enumerated in clauses (a), (b) and (c), thereof. SEBI has framed various regulations to fulfil the intended objects of Section 11(2)(e) and 12A(a)-(c) most important of which are ensuring investor protection and development of securities market. Therefore, any fraudulent act or manipulative and deceptive devices, concealment of material facts/event and their non-disclosure are considered as violation of provisions of SEBI Act and rules and regulations made there under. Further, provisions of SEBI Act empower SEBI to take various measures in the interest of investors or securities market and such measure can be taken even during pendency of investigation or inquiry or on its completion. Sections 11 and 11B of the SEBI Act empowers SEBI to pass *ex-parte ad-interim* order to protect the interests of the investors in securities market and to regulate the securities market by such measures as it thinks fit. The power to take such measures may be for any or all of the matters provided in sub-section 2 of section 11 of the SEBI Act. However, the circumstances under which such power should be exercised, have been recognized by the courts and tribunals on several instances. Recently, the Hon'ble Securities Appellate Tribunal in its order dated March 12, 2019 in the matter of North End Foods Marketing Private Limited vs. SEBI has further reaffirmed the power of SEBI by holding that :

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".....Interim orders are passed in order to prevent further possible mischief of tampering with the securities market. If during a preliminary enquiry, it is found prima-facie, that the person is indulging in manipulation of the securities market, it would be obligatory for SEBI to pass an interim order or for that matter an ex-parte interim order in order to safeguard the interests of the investors and to maintain the integrity of the market. Normally, while passing an interim order, the principles of natural justice has to be adhered to, namely, that an opportunity of hearing is required to be given.

Procedural fairness embodying natural justice is to be applied whenever action is taken affecting the rights of the parties. At times, an opportunity of hearing may not be pre-decisional and may necessarily have to be post-decisional especially where the act to be prevented is imminent or where action to be taken brooks no delay.

Thus, pre-decisional hearing is not always necessary when ex-parte ad-interim orders are made pending investigation or enquiry unless provided by the statute. In such cases, rules of natural justice would be satisfied, if the affected party is given a post-decisional hearing."

46. From the above discussions, I observe that there are sufficient material on record to make a *prima-facie* view that the valuation of the assets of the *Company* and its subsidiaries have been not fairly stated, giving rise to genuine suspicion that the assets of the *Company* are being transferred out to give undue benefits to the promoter entity (STPL) and related entity (SESPL) at the expense of the public shareholders of the *Company*.
47. In the light of the foregoing discussions, I am of the view that to protect the interests of public shareholders as well as the interest of the general investors, it is necessary to conduct an independent valuation of the assets of SIL and its subsidiaries so as to find out the actual value of assets being transferred to promoter/related party as part of the above noted Framework agreement. The independent examination of valuation is also necessary to check the veracity of the disclosures so far made by the *Company* to BSE as well as to its shareholders in the Notice to the EGM. Therefore, a forensic examination/investigation into the books of accounts of the *Company* with an objective to determine valuation of various assets of the *Company* and its consequent net worth and subsequent



investigation into the allegation of undervaluation of the assets of the *Company* and misstatement of financials leading to the alleged fraudulent transfer of assets of the *Company* to the related parties at the detriment to general investors, is required in the present matter.

48. In the end, I note from various corporate announcements made by the *Company* that the Board of Directors of the *Company* have approved the aforesaid slump sale without any observation/objections. Considering the various contrasting issues listed out above, the actions of the board of directors in the *Company prima-facie* do not appear to be helpful in protecting the interest of the shareholders of the *Company*. Therefore, I am of the view that the onus now falls on the shoulders of SEBI as the regulator to protect the interest of general investors including public shareholders of the *Company*.
49. At this stage, I find it necessary to adopt certain urgent measures so as to prevent the implementation of the proposed sale of assets of the *Company* to its promoter (STPL) and related entities (SESPL) so as to safeguard the interests of minority investors i.e. public shareholders of SIL and to protect the integrity of the securities market by ensuring that the transactions are entered by the *Company* in a transparent and fair manner on the basis of fair valuation of assets for the benefit of all of its investors. However, at the same time, the conduct of the *Company* and its Promoters/Board of Directors does not inspire confidence amongst the investors and rather exhibits gross disregard of the principles of transparency in informing the general shareholders about various material aspects of its dealings as discussed at large. The stark opaqueness on the side of the *Company* with respect to disclosure of material information regarding its transactions involving its business restructuring and transfer of assets as well as the valuation of the assets of the *Company* to be transferred as a part of the Framework agreement have *prima-facie* aroused suspicion and anxiety in the minds of investors and other stakeholders.
50. Under the facts and circumstances narrated in the preceding paragraphs, it becomes a *prima facie* case of lack of disclosure of material information pertaining to the Framework agreement, disclosure of factually erroneous quarterly financial



statements and understatement of assets of the *Company* much to the benefit of the related parties and to the detriment of general investors. Therefore, I am of the considered view that the non-interference by the Regulator at this stage may result in irreparable injury to the interests of the securities market especially to the interest of the investors. For the above said purpose, Section 11(4)(f) of the SEBI Act casts an obligation on the Board, in appropriate cases, to direct any intermediary or any person associated with the securities market in any manner, not to dispose of or alienate an asset forming part of any transaction which is under investigation either pending investigation or upon completion of such investigation. The facts in this case compel me to take urgent steps by invoking the powers under Section 11(4)(f) of the SEBI Act.

51. I find it relevant to note that, pursuant to the complaint and subsequent replies received from the *Company*, two separate opportunities of meeting were provided to the *Company* by the relevant department of SEBI wherein it was advised them to justify its actions and the transactions pursuant to the Framework agreement in the light of all the issues and *prima-facie* suspicions raised by the aggrieved complainant as well as in the factual analysis of the transactions and observations thereon made in the preceding paragraphs of this order. However, the *Company* has not only failed to justify its transactions in the light of the suspicions so raised, but has also changed its stance as compared to its earlier submissions. The inconsistent approach and contradictions in explanations offered by the *Company* further strengthens the suspicion regarding the intentions of the *Company* and the *bonafide* and genuineness of the transactions being undertaken by it pursuant to the Framework agreement, hence the same require urgent investigation.

52. The aforesaid suspicion surrounding the transfer of assets further gets fortified on looking at the fact that in the recent months of September-October 2019, substantial holding of the *Company* was acquired and within only 6 months after the acquisition of those substantial shareholding, the promoters of the *Company* have decided to enter into a Framework agreement, transferring substantial portion of profit generating projects of the *Company* to a newly setup entity, which are also substantially held by promoters only.



53. Keeping in view the aforesaid facts and circumstances surrounding the events pertaining to valuations and the frivolous justification put forth by the *Company*, it becomes incumbent now that the clouds surrounding the acts and intentions of the *Company* and its connected entities be urgently removed, which can be possible only through a process of a detailed investigation into its financial transactions, valuations and other related affairs and conduct pertaining to those financial transactions. This will not only be in the interest of the *Company* but also in the interest of its shareholders to ensure that the matters are investigated within a definite timeline before the proposed deals are pushed through to execution. Such an investigation will not only bring clarity to all the issues and aspects pertaining to the financial statements, assets, valuations of assets and other transactions but also will help the *Company* itself to complete its business restructuring in a transparent manner to the satisfaction of its shareholders.

Order

54. In view of the foregoing, in order to protect the interest of the investors and the integrity of the securities market, I, in exercise of the powers conferred upon me in terms of section 19 read with Sections 11(1), 11(4) and 11B of the SEBI Act, hereby issue the following directions –

- a. SIL is restrained from disposing, selling or alienating its assets including effecting the transactions agreed upon under the Framework agreement dated June 23, 2020.
- b. The stock exchange (**BSE**) is directed to appoint a forensic auditor to examine the books of accounts of the *Company* for the period from April 1, 2019 to December 31, 2020 ('**Audit Period**'). The forensic auditor/audit firm so appointed shall verify, inter alia, the following –
 - (i) Manipulation of Books of Accounts including authenticity of item wise details of grouping/ re-grouping of assets (segment wise and division wise) ascertaining the details of the values and corresponding liabilities etc.;



- (ii) Misrepresentation of facts including of financials and/or business operations;
- (iii) Wrongful diversion/siphoning of *Company's* funds;
- (iv) All related party transactions carried out during the Audit Period;
- (v) Whether the valuation of the assets proposed to be transferred via slump sale and also under the Framework agreement dated June 23, 2020 as per recognized valuation methodology and such valuation represent the true fair market values of those assets and are in agreement with the transaction value agreed to by the *Company*
- (vi) Any other related matter.

The forensic auditor/ audit firm so appointed as per this Order shall submit a Report to BSE within three months from the date of this Order.

- c. SIL, its management and all the signatories to the Framework agreement dated June 23, 2020 are directed to extend necessary co-operation to the forensic auditor/audit firm appointed and to furnish all information/documents sought from them from time to time.
 - d. SIL, its management and all signatories to the Framework agreement dated June 23, 2020 are directed to maintain status-quo in respect of all transactions and shall not undertake any act in furtherance of the Framework agreement till further direction in this matter.
 - e. The Stock Exchange (**BSE**) is directed to submit the forensic audit report (including all annexures) along with its recommendation within 15 days from the date of receipt of the forensic audit report.
55. The *Company* may file its reply to SEBI within 14 days from the date of receipt of this Order. It may also indicate in its reply if it wishes to avail an opportunity of personal hearing in the matter.
56. This Order shall come into force with immediate effect.
57. This Order is without prejudice to any other action that SEBI may initiate under the securities laws, as deemed appropriate, against the above mentioned entities.

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58. A copy of this Order shall be forwarded to the Stock Exchanges, Depositories, Registrar and Share Transfer Agents and Banks to ensure necessary compliance.

DATE: FEBRUARY 15 2021
PLACE: MUMBAI



S. K. Mohanty
S. K. MOHANTY
WHOLE TIME MEMBER